REMARKS

Claims 5, 11, and 15 are herein amended. Claims 4, 10, and 14 are canceled. Claims 16-20 are added herein. Claims 1-3, 5-9, 11-13, and 15-20 will be pending in the application following entry of the above amendments.

The following remarks are responsive to the Office action dated August 20, 2004.

Response to Rejection of Claims Under 35 U.S.C. §103

Claim 1 is directed to a receiving stand for a frame stacking system of the type used to stack prefabricated frames. Specifically, the receiving stand comprises:

a bench configured for receiving and supporting the frames thereon;

a stanchion pivotally movable relative to the bench about a pivot axis of the stanchion between a raised, generally upright position in which at least a portion of the stanchion extend above the bench to facilitate the stacking of frames on the bench, and a lowered position away from the frames on the bench to facilitate unloading of the frames from the bench; and

a spring member biasing the stanchion toward its raised position.

Claim 1 is submitted to be non-obvious and patentable over the references of record, and in particular U.S. Patent No. 1,245,638 (Trcka) in view of U.S. Patent No. 2,053,699 (Coates) in that whether considered alone or in combination the references fail to disclose or suggest a receiving stand for a frame stacking system having a stanchion pivotally movable relative to the bench about a pivot axis of the stanchion between a raised, generally upright position in which at least a portion of the stanchion extends above the bench to facilitate the stacking of

frames on the bench, and a spring member biasing the stanchion toward its raised position.

As shown in the drawings and described in the specification of the present application, in the raised position of the stanchion the portion of the stanchion that extends above the bench provides a back support against which the frames abut to facilitate stacking of the frames on the bench without the frames falling off of the bench. The purpose of the spring biasing member is to reduce the lifting force required by an operator to support the rather heavy stanchion and to aid the operator in controllably lowering the stanchion to its lowered position.

Trcka discloses a work-clamping table comprising a support frame structure (provided by bars 10, cross bars 11 and upright bars 12). The supporting frame supports a table, or working surface (13). A bar (15) is secured against on one longitudinal side of the working surface (13). The clamping table further comprises a clamping bar (20) supported by levers (16), extensions (17), vertical bars (18) cross-bar (19) for pivoting movement relative to the working surface (13) between a raised, clamping position in which the clamping bar extends longitudinally up against the longitudinal end of the table opposite the bar (15), and a lowered position in which the clamping bar is spaced away from the working surface (13).

As disclosed at column 3, lines 56-60, the clamping bar (20) is initially dropped away from the longitudinal edge of the table, either by the weight of the clamping bar or by raising the lever (e.g., to lower the clamping bar away from the table). With the clamping bar in its lowered position spaced away from the table, the boards or strips are assembled on the table edge-to-edge. See column 4, lines 1-6. Only after the boards are already placed on the table is the lever mechanism operated to

bring the clamping bar (20) against the outer edge of the nearest board to securely press the boards together.

Trcka thus fails to disclose or suggest a stanchion pivotally movable relative to a bench about a pivot axis of the stanchion between a raised generally upright position in which at least a portion of the stanchion extends above the bench to facilitate the stacking of frames on the bench. Specifically, the clamping bar (20) of Trcka is in its lowered position spaced away from the table when the boards are placed on the table. The clamping bar (20) therefore is not in its raised position during placement of the boards on the table and plays no part in facilitating the placement of the boards on the table. Only after the boards are placed on the table is the clamping bar moved to its raised position. The clamping bar (20) of Trcka is therefore not pivotable to a raised position in which at least a portion of the clamping bar extends above the table to facilitate the stacking of boards on the table. Accordingly, Trcka fails to disclose or even suggest a stanchion pivotable to a raised position that facilitates stacking of frames on the bench.

As implicitly recognized in the Office action, Trcka also fails to disclose a spring member biasing the stanchion toward its raised position.

Coates is directed to a hat holder having crown pieces attached to both a lower arm (2) and an upper arm (4). The arms are connected at a hinge joint (14). "Springs (6) attached at one end to the upper arm ...press the crown pieces together with enough pressure to safely hold any hat, placed between them, from movement by the force of gravitation." (See page 1, column 2, lines 3-8.)

1. Coates is Non-Analogous Art

Coates is non-analogous prior art, and therefore, it cannot properly be combined with Trcka to render claim 1 obvious. "In order to rely on a reference as a basis for rejection of an applicants' invention, the reference must either be in the field of the applicants' endeavor or, if not, then be reasonably pertinent to the particular problem with which the invention was concerned." MPEP 2141.01(a) quoting In re Oetiker, 977 F.2d 1443, 1446, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992).

Clearly, Coates is not in the same field of endeavor as applicants' receiving stand for stacking pre-fabricated trusses. In the broadest sense, Coates does not even relate to the field of stacking anything. Rather, Coates is directed to a hat holder for clamping a single hat during trimming and decoration. Obviously, the applicants' field of endeavor of stacking multiple frames is not included in the field of clamping and holding a single hat.

Moreover, Coates is not even tenuously pertinent to the particular problem with which the applicants' invention is concerned. The applicants' invention is concerned with controllably lowering and raising a large, heavy pivotally mounted stanchion used to facilitate stacking of large, heavy objects, such as pre-fabricated trusses. A stanchion of that size and weight is difficult to controllably pivot to both its raised and lowered position. Coates, on the other hand, solves the problem of allowing the operator to change position of a hat or other small object while working on it and/or allowing a milliner to work hands-free on a hat held by the device. These two problems are not related.

Applicants concede that both Coates and the applicants' invention use springs. However, the springs are used to solve different problems. In the applicants' invention, a spring is

used to constrain the angular acceleration created when the large, heavy stanchion is lowered and to promote angular acceleration when the stanchion is raised, both of which decrease the work of the operator and make the procedure safer. The spring used in Coates allows the hat or object to be clamped and held into place, it is not used in order to reduce or increase the force necessary to move the arms into position, like the applicants' invention. The arms in Coates are lightweight, and an operator (milliner) does not need the spring to controllably open and close the clamp. Moreover, in the applicants' invention, the spring does not create a clamping force against the trusses.

For the reasons stated above, Coates is non-analogous art in view of the applicants' invention and cannot be combined with Trcka to render claim 1 obvious. Therefore, claim 1 is submitted as patentable over the references of record.

2. A Combination of Trcka and Coates Fails to Show or Suggest All of the Elements of Claim 1

Trcka does not disclose a raised position that facilitates stacking, nor does Coates. As in Trcka, the pivoting member of Coates is spaced away from the support surface on which the object (the hat) is placed, and plays no part in facilitating placement of the object on the support surface. Since both references fail to disclose this feature, a combination of the references similarly fails to disclose such a feature.

Thus, claim 1 is submitted to be patentable over the references of record because, among other things, a combination of Trcka and Coates fails to show or suggest a pivotally movable stanchion to facilitate stacking and unloading of frames.

3. There is No Motivation or Suggestion to Combine References

There is also no teaching, suggestion or motivation to combine Trcka and Coates to achieve all of the features of claim 1. Obviousness can only be established by modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references or in the knowledge generally available to one of ordinary skill in the art. MPEP § 2143.01 citing In re Kotzab, 55 USPQ2d 1313, 1317 (Fed. Cir. 2000).

Trcka does not teach the use of a spring, nor does it suggest any advantage by using one. Trcka discloses the weight of the clamping bar being utilized to cause the bar to "normally drop away from the adjacent edge of the table", such that "when the pressure of the operator's foot is removed from the treadle portion of the lever, the clamping bar drops away from the table and the boards or strips which are to enter into door contruction are assembled...". The teachings of Trcka is intuitive - an operator would not want the clamping bar (stanchion as asserted in the Office action) biased in an upright position because he needs to place boards or strips on the table before employing the clamp. Clearly, the use of a spring to "bias the Trcka stanchion to the generally upright work engagement position by means of an offset spring" is not only undisclosed, but it is also not in line with the intended use of the clamping table.

Thus, there is no motivation to combine Trcka and Coates to make a receiving stand for a frame stacking system having a pivotally movable stanchion to facilitate stacking and unloading of frames and a spring biasing the stanchion toward its raised position. In view of the foregoing, claim 1 is submitted to be patentable over the references of record.

Claims 2, 3, 12 and 13, depend directly or indirectly from claim 1 and are submitted as patentable over the references of record for the same reasons as claim 1.

New Claims

Claims 16-18

New claims 16-18 are added herein to reflect the Examiner's position that claims 4, 10, and 14 would be allowable if rewritten in independent form including all of the limitations of the base claims and any intervening claims. Claim 4 is rewritten as independent claim 16. Claim 10 is rewritten as independent claim 17. Claim 14 is rewritten as independent claim 18.

Claims 4, 10, and 14 are canceled. Claims 5, 11, and 15, which previously depended from the canceled claims 4, 10, and 14, respectively, are amended herein to depend from the corresponding new independent claims.

Claim 19

New claim 19 is directed to a receiving stand for a frame stacking system of the type used to stack prefabricated frames. The receiving stand comprises:

a bench configured for receiving and supporting the frames thereon;

a stanchion pivotally movable relative to the bench about a pivot axis of the stanchion between a raised, generally upright position in which at least a portion of the stanchion extends above the bench to facilitate the stacking of frames on the bench, and a lowered position away from the frames stacked on the bench to facilitate unloading of the frames from the bench, said pivot axis being located above the bench; and

a spring member biasing the stanchion toward its raised position.

Claim 19 recites the same elements as claim 1 with an additional element of the pivot axis being located above the bench.

In addition to the reasons given above with respect to claim 1, claim 19 is submitted to be non-obvious and patentable over the references of record, and in particular Trcka in combination with Coates, in that whether considered alone or in combination, the references fail to show or suggest a receiving stand for a frame stacking system having a bench and a pivotally movable stanchion with a pivot axis located above the bench.

Trcka, according to the Examiner, purportedly shows a bench and a pivotally movable stanchion. However, the pivot axis of the clamping bar (20) is located between the bottom and top of the working surface (13). Thus, Trcka fails to disclose the pivot axis located above the bench. Nothing disclosed in Trcka suggests that the pivot axis should or even could be located above the bench (in fact, the device probably would not properly clamp boards together if the pivot axis was above the bench).

Coates fails to disclose a bench. Therefore, Coates obviously fails to disclose or suggest the pivot axis being located above the bench.

For the above stated reasons, claim 19 is submitted to be patentable over the references of record.

Claim 20

Claim 20 is directed to a receiving stand for a frame stacking system of the type used to stack prefabricated frames. The receiving stand comprises:

a bench configured for receiving and supporting the frames thereon, said bench having a height;

a stanchion pivotally movable relative to the bench about a pivot axis of the stanchion between a raised, generally upright position in which at least a portion of the stanchion extends above the bench to facilitate the stacking of frames on the bench, and a lowered position away from the frames stacked on the bench to facilitate unloading of the frames from the bench, wherein when the stanchion is in the raised, generally upright position, the portion of the stanchion extending above the bench has a length that is greater than the height of the bench; and

a spring member biasing the stanchion toward its raised position.

Claim 20 recites the same elements as claim 1 with an additional element of the portion of the stanchion extending above the bench when the stanchion is in the raised position has a length that is greater than the height of the bench.

In addition to the reasons given above with respect to claim 1, claim 20 is submitted to be non-obvious and patentable over the references of record, and in particular Trcka in combination with Coates, in that whether considered alone or in combination, the references fail to show or suggest a receiving stand for a frame stacking system having a bench and a pivotally movable stanchion, wherein the length of the portion of the stanchion extending above the bench when the stanchion is in its upright position is greater than the height of the bench.

The length of the portion of the clamping bar (20) that extends above the table (13) is clearly not greater than the height of the table. The only portion of the stanchion that extends above the bench is a small portion of the clamping bar (20). Furthermore, nothing in Trcka suggests such a feature.

Coates fails to disclose a bench altogether. Therefore, Coates obviously fails to disclose or suggest making the length of the portion of the stanchion extending above the bench greater than the height of the bench.

For the above stated reasons, claim 20 is submitted as patentable over the references of record.

Conclusion

In view of the foregoing, favorable consideration of claims 1-3, 5-9, 11-13, and 15-20 as now presented is respectively requested.

Respectfully submitted,

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